

NOT FOR PUBLICATION

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

GREGORY MACDONALD BERRY,

Petitioner

v.

WARDEN, FCI-FAIRTON,

Respondent

Civ. No. 24-8103 (RMB)

MEMORANDUM OPINION

IT APPEARING THAT:

1. On or about July 26, 2024, Petitioner Gregory MacDonald Berry, a prisoner confined in the Federal Correctional Institution in Fairton, New Jersey, submitted a petition for writ of habeas corpus under 28 U.S.C. § 2241, seeking release from prison. (Pet., Dkt. No. 1.) The Court administratively terminated the action for failure to either pay the filing fee or file an application to proceed *in forma pauperis* (“IFP”) under 28 U.S.C. § 1915(a). (Order, Dkt. No. 2.)

2. Petitioner paid the filing fee and then filed a motion to temporarily stay proceedings. (Mot. to Stay, Dkt. No. 3.)

3. Petitioner subsequently filed a motion to voluntarily dismiss his habeas petition, having determined it was not the proper vehicle for the relief sought. (Mot. to Dismiss, Dkt. No. 4.)

4. Federal Rule of Civil Procedure 41(a) permits a plaintiff to dismiss an action without a court order before the opposing party serves an answer or motion for summary judgment. Dismissal is without prejudice, unless otherwise stated. The Federal Rules of Civil Procedure are applicable to habeas corpus actions, except when inconsistent with statutory provisions or habeas specific rules. *Banister v. Davis*, 590 U.S. 504, 511 (2020) (citations omitted).

5. Petitioner has met the requirements under Fed. R. Civ. P. 41(a) for voluntary dismissal of suit, and his motion to dismiss without prejudice will be granted. Petitioner's motion to stay proceedings is now moot, and the motion will be dismissed.

An appropriate order follows.

Dated: **October 21, 2024**

Renée Marie Bumb
RENÉE MARIE BUMB
Chief United States District Judge